MISCELLANY.

"Movies" as Evidence.—In a murder trial recently held in California the defense sought to present its version of the tragedy to the jury in a novel and striking manner. Skilled motion picture actors enacted before the camera the entire scene of the homicide according to a description based on the testimony of the witnesses for the defense, and the picture was offered for reproduction before the jury, with the testimony of an eyewitness that the picture depicted the events as he saw them. It was argued with considerable plausibility that, as thus verified, the picture did not differ in principle from a "still" picture proved to represent accurately the scene depicted. In excluding the evidence, the trial judge pointed out two classes of cases in which motion pictures would clearly be admissible; where the picture is of the actual event under investigation and where the question is whether it is physically possible that the event could have taken place in the manner described by a witness. But where the issue is, not whether the facts could have been as related, but what they actually were, he held with undoubted correctness that a dramatic portrayal by persons who did not see the event is heresay evidence. Answering the argument based on the admissibility of ordinary photographs, he quoted from Moore on Facts as to the possibility of misrepresentation in photographs (see on this point Law Notes, Vol. 19, p. 46) and the danger that jurors will attach undue weight to a pictorial representation. These dangers, he went on to point out, are peculiarly present in case of motion pictures. The actor representing the deceased, for example, being instructed by the "scenario" to depict him as the aggressor, could not duplicate the actual mannerisms of the deceased, but would naturally use his dramatic skill and training to act the part strongly and convincingly. Because of the many little mannerisms which play so important a part in motion pictures, it is impossible that the actual events should be reproduced accurately; in fact, as the court pointed out, "it would be extremely difficult, if not impossible, for the same set of actors, however skilled, to make this picture twice alike." In other words, the picture is inaccurate as to details in a matter where the smallest detail is of importance, and it is clear that under those circumstances a photograph would be rejected. Furthermore, even assuming the accuracy of such a portrayal, it is probable that a jury would give it undue weight, would fail to remember that it is entitled to no more credit than the witnesses on whose description it is based. Impressions received through the eye are more distinct and lasting than those received through the ear. Aaron Burr once said: "If you are told that a man unknown to you has been crushed by a falling tree it makes

little impression, but if you see a man crushed by a falling tree you are unnerved for days by the horror of it." Every devotee of the "movies" knows the impression of reality made by a strong picture and how easy it is to forget that it is only a picture. While in the California case the motion picture was offered by the defense, if such evidence is admissible it would be equally available to the prosecution. In a case of murder or rape the natural revulsion produced in the minds of the jurymen by the facts of the crime is now a heavy handicap on the accused. If that feeling was augmented by a dramatic portrayal of the prosecution's theory, the defendant's alleged brutality being enacted with the practiced skill of the motion picture "bad man" and the victim's innocent charm depicted by some star of filmdom, the defendant's chance of acquittal would not be worth mentioning. There is a considerable field for motion pictures as an improvement over ordinary photographs in presenting actual scenes and conditions to a jury. A motion picture taken during the actual progress of a fire, a flood or a riot would be better than the testimony of twenty eyewitnesses. But it is equally clear that pictures made after the event and based on a description thereof cannot meet the standards of reliability imposed by the courts.—Law Notes.

Curbstone, Steeples and Horse Tails.—"The presence of a curbstone along a highway indicates merely an improved or modernized highway. It is as much a part thereof as the steeple might be of a church, or as that extremity of a horse with which he drives away flies 'in the good old summer time' is a part of the horse." Gibson *v.* Georgia Life Ins. Co., 17 Ga. App. 43, 44, 86 S. E. 335.

Rights of Purchaser of Stolen Bonds.—Thefts of Liberty Bonds have been reported from time to time in the daily press. This form of negotiable security, so generally owned, affords a tempting field for the depredations of larcenists. They will, of course, attempt to dispose of the bonds by sale, and this fact lends an especial interest to the question as to the rights acquired by a purchaser of stolen bonds.

The recent case of Pratt *v.* Higginson, 230 Mass. 256, 119 N. E. 661, annotated in 1 A. L. R. 714, is authority for the proposition that bonds having a legal inception and payable to bearer, or blank as to the payee, or payable to order and indorsed in blank, are negotiable paper, and that the purchaser of such bonds, although they have been stolen, acquires a good title thereto as against the true owner, providing he purchased in good faith and for a valuable consideration.

The good faith required of the purchaser of stolen bonds may be

defined as the absence of bad faith, and it is the general rule that actual bad faith must be shown. The purchaser will be protected unless the circumstances are such that an inference can be fairly and legitimately drawn that the purchase was made with notice of the seller's defective title. It is said in Seybel *v.* National Currency Bank, 54 N. Y. 288, 13 Am. Rep. 583, that a purchaser is under no obligation to make an inquiry of the person offering bonds for sale as to his right or title thereto, nor need he take any special precautionary measures; for even though chargeable with negligence, this alone will not suffice to defeat his title.

The title to the interest coupons of United States bonds, payable to the bearer, passes by delivery, and in Spooner *v.* Holmes, 102 Mass. 503, 3 Am. Rep. 491, they are held to be "subject to the same rules as bank bills or other negotiable instruments payable in money to the bearer."

But though the owner of negotiable securities payable to bearer or indorsed in blank, stolen and sold by the thief, can not recover the same from a bona fide purchaser for value, he may, as stated in 24 R. C. L. 378, "pursue the proceeds of the sale, in the hands of the thief or his assignee with notice, through whatever changes the proceeds may have gone, so long as the proceeds or the substitute therefor can be distinguished or identified, and may have the same subjected by a court of equity to a lien or trust in his favor."—Case and Comment.